



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

icil is Egyptian, the law applicable to persons who have acquired such a domicile varies according to the nationality of the person. The foreigner does not become domiciled as a member of the English community in Egypt, but he acquires an Egyptian domicile, because he, by his own choice, has made Egypt his permanent home, and you have then to consider by what code of law he and his estate are governed according to the law in force in Egypt. The domicile is purely territorial, and you go to the law in force in the territory to see what system of law it treats as applicable to resident foreigners, and to what Courts they are subject. 88 L. J. P. 49, 56. Finally, this position has been attained without distorting the nature of consular jurisdiction. It is not necessary to regard consular jurisdiction as delegated authority; no dialectical legerdemain need be indulged in order to find sovereignty and reconcile it with realities. While the position of persons subject to consular jurisdiction is not regarded as ex-territorial, the jurisdiction itself is ex-territorial in a very real sense. "The jurisdiction exercised by His Majesty in Egypt is indeed ex-territorial, but it is exercised with the consent of the Egyptian Government, and its jurisdiction is therefore for this purpose really part of the law of Egypt affecting foreigners there resident. The position of a British subject in Egypt is not ex-territorial; if resident there, he is subject to the law applicable to persons of his nationality. Whether that law owes its existence simply to the decree of the Government of Egypt, or to the exercise by His Majesty of the powers conferred on him by treaty, is immaterial." Per LORD FINLAY, 88 L. J. P. 49, 53; see also 51, 52, 56, 63, 71, 72.

The decision of the House of Lords in *Casdagli v. Casdagli* has brought the question of domicile under consular jurisdiction to a final and satisfactory settlement. *Tootal's Trusts* may be relegated to the custody of the mystagogue. Although that famous case is no longer significant as an authority, it will always be a decision of considerable historical interest because of the curious chapter in the evolution of dicta which it provoked.

E. D. D.

---

RAILROAD EMPLOYMENT—ADAMSON LAW—NON-APPLICATION TO SWITCH TENDER.—Primarily an enactment of a legislative body is to be carried out according to its express terms. If the terms are clear, explicit, unambiguous, the enactment is not subject to judicial interpretation and the courts cannot go beyond it to ascertain the legislative intention because the words themselves are presumed to convey the intention of the legislature. If the words and terms are free from doubt they must be given their ordinary and natural meaning although this may give to the enactment a narrower, wider, or different scope than intended by the legislature. The above principles are aptly expressed by SUTHERLAND in his work on STATUTORY CONSTRUCTION, second edition, annotated by LEWIS. On page 696 he says, "the rules of construction with which the books abound apply only where the words are of doubtful import; they are only so many lights to assist the court in arriving with more accuracy at the true interpretation of the intention." And on page 697, "courts are not at liberty to speculate upon the intentions of the legislature

where the words are clear and to construe an act upon their own notions of what ought to have been enacted". And again on page 701 the author says, "even when a court is convinced that the legislature really meant and intended something not expressed by the phraseology of the act, it will not deem itself authorized to depart from the plain meaning of language which is free from ambiguity".

Although these principles are well-established the courts occasionally depart from them or misapply them in their anxiety to effectuate the known intention of the legislature. The case of *Coke v. Illinois Central R. Co.* (Jan., 1919), 255 Fed. 190, seems to be an instance of this. With the exception of the case of *Wilson v. New*, 243 U. S. 332, upholding the constitutionality of the act, this is the only federal case involving an interpretation of the Adamson Act (Act of Congress, approved Sept. 3 and 5, 1916, C. 436, 39 Stat. 721). The title of the act is "An Act to establish an eight hour day for employees of carriers engaged in interstate and foreign commerce, and for other purposes." The act provides that "Beginning January 1st, 1917, eight hours shall, in contracts for labor and service, be deemed a day's work and the measure or standard of a day's work for the purpose of reckoning the compensation for services of all employees who are now or may hereafter be employed by any common carrier by railroad \* \* \* and who are now or may hereafter be actually engaged in any capacity in the operation of trains used for the transportation of persons or property on railroads. \* \* \*" A switchman, whose employment involved attending to a switch over which all the trains to and from defendant's station passed, sued to recover the extra compensation provided by the Adamson Act. The court denied recovery, holding that the act applied only to the employees of the four Brotherhoods, namely, Order of Railway Conductors, **Brotherhood of Locomotive Engineers**, Brotherhood of Locomotive Firemen and Engineers and Brotherhood of Railway Trainmen.

The decision undoubtedly conforms to the intention of Congress in passing the act. To arrive at this intention Judge McCall went beyond the act itself and consulted extraneous sources, particularly the message of President WILSON and the remarks of Senator UNDERWOOD, (who had charge of the bill), as they appear in the Congressional Record. On principle, as we have seen, the court was justified in doing this only if the act was not clear or if it was ambiguous. The court says, at the outset, that "broadly speaking, the act might be construed to include every employee of such railroad from president down to section hand, who was in any capacity actually engaged in doing those things necessary to the operation of trains; such as directing their operation in a supervising way, maintaining the roadway, lining up switches for their operation, or aboard the trains manually operating them, etc." Such a construction, it is submitted, would be erroneous because it goes beyond the express terms of the act. The act embraces only the employees, "who are now or may hereafter be actually engaged in any capacity in the operation of trains." There is an obvious distinction between the employees who are engaged in the actual operation of trains, as the act

prescribes, and the employees who are engaged, within the meaning of the court, *supra*, "in doing those things necessary to the operation of trains". To hold that the act embraces the latter class would be a manifest enlargement of the clear, reasonable and ordinary meaning of the words of the act.

The words of the act are certainly unequivocal and explicit and it would seem that the court is not justified in its statement that "it is too much to say that the terms of the act are clear and unambiguous". The act plainly and clearly specifies the class of employees intended to be embraced. Of course, a question may arise, as in the instant case, as to whether or not a certain employee comes within the class specified. Such question, however, has nothing to do with the clarity of the words of the act; it merely involves a determination of the proper application of the words. Let us illustrate by an analogous case. The Fourteenth Amendment to the Constitution of the United States provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws". The question has arisen whether a corporation is a "person" within the meaning of this provision. Could it be correctly said that the provision is ambiguous because it is uncertain whether it embraces a corporation? No. The words are express and clear and the question as to their proper application does not impart to the words the quality of ambiguity. The same may be said of the clause of the Fourteenth Amendment which provides that "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States". Ambiguity cannot be said to inhere in this clause merely because a question may arise as to whether a particular person is a citizen of the United States within its meaning.

The question as to what employees of the railroad come within the class specified in the Adamson Act may be answered by giving to the words of the act their natural and ordinary meaning. The words, "actually engaged in the operation of trains" are significant. They clearly convey the idea intended by the legislature, namely, that the act should embrace only the employees engaged "on the engines and in the cars". If the legislature had intended in addition to embrace the employees doing those things incidental or accessory to the actual operation of trains, such as switchmen, it undoubtedly would have included in the act a provision to that effect. There certainly is a distinction between the operation of a train and the operation of a switch or the doing of anything else which is a necessary aid to the actual operation of the trains.

The Adamson Act was clearly intended to provide only for the employees of the four Brotherhoods, or, in other words, for only the employees who are engaged "on the engines and in the cars". The instant case, therefore, reaches the right decision in excluding the plaintiff from the operation of the act. However, the resort by the court to sources beyond the act itself to ascertain the intention of the legislature was improper, because it was predicated on the proposition that the act is ambiguous. Furthermore, the resort was unnecessary, because the words of the act, when given their natural and ordinary meaning, clearly convey the intention of the legislature.

L. S. H.